

Senate Study Bill 1271 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act authorizing the establishment of promotion areas by
2 cities and authorizing the imposition of a local lodging
3 fee.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 386.1, Code 2015, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 4A. "*Promotion area*" means an area which
4 may be created and the lessors therein subject to the lodging
5 fee in accordance with section 386.3A.

6 NEW SUBSECTION. 4B. "*Promotion board*" means the board of
7 directors of a nonprofit corporation that conducts promotion
8 services and sponsors or supports community or tourism
9 attractions and activities in a promotion area or in the area
10 of a proposed promotion area and whose membership is comprised
11 of at least fifty percent lessors, as defined in section
12 386.5B, subsection 7, located in the promotion area.

13 NEW SUBSECTION. 4C. "*Promotion services*" means any of the
14 following:

15 a. Promoting public events that benefit businesses or
16 property in a promotion area.

17 b. Coordinating live music performances in a promotion area.

18 c. Coordinating promotion, marketing, and sales programs to
19 benefit property or businesses located in a promotion area.

20 d. Marketing and economic development services, including
21 retail retention and recruitment for the promotion area.

22 e. Providing security, sanitation, graffiti removal, street
23 and sidewalk cleaning, and other services for the promotion
24 area that are in addition to those already provided by the
25 city.

26 f. Any other services that benefit businesses and property
27 located in the promotion area.

28 Sec. 2. Section 386.2, Code 2015, is amended to read as
29 follows:

30 **386.2 Authorization.**

31 1. A city ~~which~~ that proposes to create a district, to
32 provide for its existence and operation, to provide for
33 improvements or self-liquidating improvements for the district,
34 to authorize and issue bonds for the purposes of the district,
35 and to levy the taxes authorized by this chapter must do so in

1 accordance with the provisions of this chapter.

2 2. A city that proposes to create a promotion area, to
3 provide for its existence and operation, and to undertake or
4 provide for promotion services in the promotion area must do so
5 in accordance with the provisions of this chapter. Except for
6 the local lodging fee authorized in section 386.5B, a city is
7 not authorized to levy any other taxes or issue bonds otherwise
8 authorized in this chapter unless the city has also established
9 a district in accordance with the provisions of this chapter
10 that includes the property comprising the promotion area.

11 Sec. 3. NEW SECTION. **386.3A Establishment of a promotion**
12 **area.**

13 1. A promotion area may be created by action of the council
14 following approval by the county board of supervisors, if
15 applicable, in accordance with the provisions of this section.
16 An area shall:

17 a. Be comprised of contiguous property wholly within
18 the boundaries of the city. However, a promotion area may
19 include property in the unincorporated areas of the county that
20 is contiguous to the property of the proposed area located
21 within the boundaries of a city, if approved by resolution of
22 the county board of supervisors. A promotion area shall be
23 comprised only of property that is zoned for commercial or
24 industrial uses or properties within a duly designated historic
25 district.

26 b. Be given a descriptive name containing the words
27 "promotion area".

28 c. Be comprised of property related in some manner,
29 including but not limited to present or potential use, physical
30 location, condition, relationship to an area, or relationship
31 to present or potential commercial or other activity in an
32 area, so as to be benefited in any manner from the performance
33 of promotion services in the area.

34 2. The council shall initiate proceedings for establishing
35 a promotion area upon the filing with the city clerk of a

1 petition containing:

2 *a.* The signatures of a majority of all owners of property
3 that is used in the business of renting lodging to users within
4 the proposed promotion area. These signatures must together
5 represent ownership of property with an assessed value in
6 excess of fifty percent of the assessed value of all of the
7 property in the proposed promotion area.

8 *b.* A description of the boundaries of the proposed promotion
9 area or a description of the property within the proposed
10 promotion area.

11 *c.* The name of the proposed promotion area.

12 *d.* A statement of the rate of the local lodging fee proposed
13 for imposition within the promotion area, not to exceed one
14 dollar per night of lodging rental.

15 *e.* The purpose of the establishment of the promotion area,
16 which may be stated generally or in terms of the relationship
17 of the property within the promotion area or the interests of
18 the owners of property within the promotion area.

19 *f.* A statement that local lodging fees shall be used for
20 promotion services in the promotion area.

21 3. *a.* The council shall notify the city planning commission
22 upon the receipt of a petition. It shall be the duty of the
23 city planning commission to make recommendations to the council
24 in regard to the proposed promotion area. The city planning
25 commission shall, with due diligence, prepare an evaluative
26 report for the council on the merit and feasibility of the
27 promotion services for the proposed promotion area. The
28 council shall not hold its public hearings or take further
29 action on the establishment of the promotion area until it
30 has received the report of the city planning commission. In
31 addition to its report, the commission may, from time to time,
32 recommend to the council amendments and changes relating to the
33 promotion area.

34 *b.* If no city planning commission exists, the council shall
35 notify the metropolitan or regional planning commission upon

1 receipt of a petition, and such commission shall have the
2 same duties set forth in this subsection as a city planning
3 commission. If no metropolitan or regional planning commission
4 exists, the council shall notify the zoning commission upon
5 receipt of a petition, and such commission shall have the
6 same duties set forth in this subsection as a city planning
7 commission. If no planning or zoning commission exists, the
8 council shall, upon receipt of a petition, conduct a public
9 hearing on the establishment of a promotion area.

10 4. Upon receipt of the commission's final report or after
11 the public hearing has been conducted, as applicable, the
12 council shall set a time and place for a meeting at which
13 the council proposes to take action on the petition filed
14 pursuant to subsection 2 for establishment of the promotion
15 area and shall publish notice of the meeting as provided in
16 section 362.3, and the clerk shall send a copy of the notice by
17 certified mail not less than fifteen days before the meeting
18 to each owner of property within the proposed promotion area
19 at the owner's address as shown by the records of the county
20 auditor. If a property is shown to be in the name of more than
21 one owner at the same mailing address, a single notice may be
22 mailed addressed to all owners at that address. Failure to
23 receive a mailed notice is not grounds for objection to the
24 council's taking any action authorized in this section, section
25 386.4A, section 386.5A, or section 386.5B.

26 5. In addition to the time and place of the meeting for
27 hearing on the petition, the notice must state:

28 a. That a petition has been filed with the council asking
29 that a promotion area be established.

30 b. The name of the promotion area.

31 c. The purpose of the promotion area.

32 d. The property proposed to be included in the promotion
33 area.

34 e. The rate of the local lodging fee proposed for imposition
35 in the promotion area.

1 *f.* The name of the promotion board with which the city
2 intends to contract to conduct promotion services within the
3 promotion area using local lodging fee revenue.

4 6. At the time and place set in the notice, the council
5 shall hear all owners of property in the proposed promotion
6 area or residents of the city, or county, if applicable,
7 desiring to express their views. The council must wait at
8 least thirty days after the public hearing has been held before
9 it may adopt an ordinance establishing a promotion area which
10 must be comprised of all the property which the council finds
11 has the relationship described in subsection 1, paragraph
12 "c". Property included in the promotion area proposed in the
13 petition need not be included in the established promotion
14 area. However, the council may not include property in the
15 promotion area that was not included in the petition proposing
16 the area until the council has held another public hearing
17 after it has published and mailed notice in the same manner
18 as required in subsection 4 and containing the information
19 required in subsection 5, or has caused a notice of the
20 inclusion of the property to be personally served upon each
21 owner of the additional property, or has received a written
22 waiver of notice from each owner of the additional property.

23 7. Adoption of the ordinance establishing a promotion
24 area requires the affirmative vote of three-fourths of all
25 of the members of the council, or in cities having but three
26 members of the council, the affirmative vote of two members.
27 However, if a remonstrance has been filed with the clerk signed
28 by a majority of all owners of property within the proposed
29 promotion area representing ownership of property with an
30 assessed value in excess of fifty percent of the assessed
31 value of all of the property in the proposed promotion area,
32 the adoption of the ordinance requires a unanimous vote of the
33 council.

34 8. The clerk shall cause a copy of the ordinance to be filed
35 in the office of the county recorder of each county in which

1 any property within the promotion area is located.

2 9. The city shall, as part of the ordinance establishing the
3 promotion area, designate a promotion board that the city will
4 contract with to administer revenues collected by the city from
5 imposition of the local lodging fee and undertake promotion
6 services in the promotion area using local lodging fee revenue.

7 10. The adoption of an ordinance establishing a promotion
8 area is a legislative determination that the property within
9 the promotion area has the relationship required under
10 subsection 1, paragraph "c", and includes all of the property
11 within the promotion area which has that relationship in the
12 promotion area.

13 11. Any resident or property owner of the city, or of the
14 unincorporated area of the county, if applicable, may appeal
15 the action and the decisions of the council, including the
16 creation of the promotion area and the imposition of the local
17 lodging fee, to the district court of the county in which any
18 part of the promotion area is located, within thirty days after
19 the date upon which the ordinance creating the promotion area
20 becomes effective, but the action and decision of the council
21 are final and conclusive unless the court finds that the
22 council exceeded its authority. An action may not be brought
23 questioning the regularity of the proceedings pertaining to
24 the establishment of a promotion area or the validity of the
25 promotion, or the propriety of the inclusion or exclusion of
26 any property within or from the promotion area, or the ability
27 to impose a local lodging fee in accordance with the ordinance
28 establishing the promotion area, after thirty days from the
29 date on which the ordinance creating the promotion area becomes
30 effective.

31 Sec. 4. NEW SECTION. 386.4A Amendments to promotion areas.

32 1. The ordinance creating a promotion area may be amended
33 and property may be added to a promotion area and the local
34 lodging fee rate referred to in the ordinance may be changed at
35 any time in the same manner and by the same procedure as for the

1 establishment of a promotion area.

2 2. Action by the council amending the ordinance creating
3 the promotion area, including adding property to or severing
4 property from the promotion area, changing the designated
5 promotion board, or changing the rate of the local lodging
6 fee, shall be by ordinance adopted by an affirmative vote of
7 three-fourths of all of the members of the council, or in
8 cities having but three members of the council, the affirmative
9 vote of two members. However, if a remonstrance has been filed
10 with the clerk signed by a majority of all owners of property
11 within the promotion area and all property proposed to be
12 included representing ownership of property with an assessed
13 value in excess of fifty percent of the assessed value of all
14 the property in the promotion area and all property proposed
15 to be included, the amending ordinance must be adopted by
16 unanimous vote of the council.

17 3. The clerk shall cause a copy of the amending ordinance
18 to be filed in the office of the county recorder of each county
19 in which any property within the promotion area, as amended,
20 is located.

21 4. Any resident or property owner of the city may appeal
22 the action or decisions of the council amending the ordinance
23 creating the promotion area to the district court of the county
24 in which any part of the promotion area, as amended, is located
25 within fifteen days after the date upon which the amending
26 ordinance becomes effective, but the action and decision of
27 the council are final and conclusive unless the court finds
28 that the council exceeded its authority. An action may not
29 be brought questioning the regularity of the proceedings
30 pertaining to the amended ordinance or the validity of the
31 promotion area as amended, or the propriety of the inclusion
32 or exclusion of any property within or from the amended
33 promotion area, or the ability to impose the local lodging fee
34 in accordance with the ordinance establishing the promotion
35 area, as amended, after thirty days from the date upon which

1 the amending ordinance becomes effective.

2 5. All other provisions in section 386.3A shall apply to
3 an amended promotion area and to any ordinance amending the
4 ordinance creating the promotion area with the same effect as
5 they apply to the original promotion area and the ordinance
6 creating the original promotion area.

7 Sec. 5. NEW SECTION. 386.5A **Dissolution.**

8 A promotion area may be dissolved and terminated by
9 action of the council repealing the ordinance creating the
10 promotion area, and any subsequent ordinances amending the
11 ordinance creating the promotion area, by an affirmative vote
12 of three-fourths of all members of the council, or in cities
13 having but three members of the council, the affirmative vote
14 of two members. However, if a remonstrance has been filed with
15 the clerk signed by a majority of all owners of property within
16 the promotion area representing ownership of property with
17 an assessed value in excess of fifty percent of the assessed
18 value of all the property in the promotion area, the repeal of
19 the ordinance creating the promotion area, and any subsequent
20 ordinances amending the ordinance creating the promotion area,
21 requires a unanimous vote of the council.

22 Sec. 6. NEW SECTION. 386.5B **Local lodging fee.**

23 1. Following establishment of a promotion area in
24 accordance with this chapter, a city may impose, as part of
25 the ordinance establishing the promotion area, a local lodging
26 fee, not to exceed one dollar, to be imposed on each night of
27 lodging rental at a lessor located in the promotion area.

28 2. The local lodging fee shall be collected by the lessor
29 of lodging from the user of that lodging. The lessor shall add
30 the fee to the sales price of the lodging, and the fee shall
31 be stated as a distinct item separate and apart from the sales
32 price of the lodging and taxes imposed, if any, under section
33 423A.3 or 423A.4.

34 3. Local lodging fees collected by a lessor shall be due and
35 payable to the city according to a schedule specified in the

1 ordinance creating the promotion area. A lessor is liable for
2 the payment of fees to the city in the same manner as liability
3 is imposed on retailers for the payment of taxes under sections
4 421.26 and 421.28.

5 4. Fees received by a city under this section shall be
6 deposited in a promotion area account within the city's general
7 fund. A separate account shall be created for each promotion
8 area established by the city. All fees collected under this
9 section are deemed to be held in trust for the city. The city
10 shall, not less than quarterly, transfer all such fees from
11 the promotion area account within the city's general fund to
12 the promotion board with which the city has contracted with to
13 administer revenues collected by the city from imposition of
14 the local lodging fee.

15 5. Moneys transferred to a promotion board shall be used for
16 promotion services within the applicable promotion area.

17 6. The ordinance imposing a local lodging fee under this
18 section shall designate a city officer to receive payments
19 from lessors and to prescribe any forms necessary for the
20 collection, reporting, and payment of such fees.

21 7. For the purposes of this section, unless the context
22 otherwise requires, "lessor", "lodging", "rent", and "user" mean
23 the same as defined in section 423A.2.

24 Sec. 7. Section 423A.3, Code 2015, is amended to read as
25 follows:

26 **423A.3 State-imposed hotel and motel tax.**

27 A tax of five percent is imposed upon the sales price for
28 the renting of any lodging if the renting occurs in this state.
29 The tax shall be collected by any lessor of lodging from the
30 user of that lodging. The lessor shall add the tax to the
31 sales price of the lodging, and the state-imposed tax, when
32 collected, shall be stated as a distinct item, separate and
33 apart from the sales price of the lodging, and the local tax
34 imposed, if any, under section 423A.4, and the local lodging
35 fee imposed, if any, under section 386.5B.

1 Sec. 8. Section 423A.5, Code 2015, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 3. All of the following are exempt from any
4 fee imposed under section 386.5B;

5 a. The renting of lodging which is rented by the same person
6 for a period of more than thirty-one consecutive days.

7 b. The renting of sleeping rooms in dormitories and in the
8 memorial unions at all universities and colleges located in the
9 state of Iowa.

10 c. The lodging furnished to the guests of a religious
11 institution if the property is exempt under section 427.1,
12 subsection 8, and the purpose of renting is to provide a
13 place for a religious retreat or function and not a place for
14 transient guests generally.

15	EXPLANATION
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16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill authorizes the establishment of promotion areas by
19 cities and authorizes the imposition of a local lodging fee in
20 those promotion areas.

21 Under the bill, a promotion area may be created by action
22 of the city council under Code chapter 386 (self-supported
23 municipal improvement districts). A promotion area must be
24 comprised of contiguous property wholly within the boundaries
25 of the city but may include property in the unincorporated
26 area of the county that is contiguous to the property of the
27 proposed area if the county board of supervisors approves its
28 inclusion by resolution. The bill requires that the promotion
29 area be comprised of property related in some manner, including
30 but not limited to present or potential use, physical location,
31 condition, relationship to an area, or relationship to present
32 or potential commercial or other activity in an area, so as to
33 be benefited in any manner from the performance of promotion
34 services in the area.

35 The bill requires the council to initiate proceedings for

1 establishing a promotion area upon the filing of a petition
2 containing signatures of all owners of property that is used in
3 the business of renting lodging within the proposed area and
4 other information specified in the bill.

5 The bill requires the council to notify the city planning
6 commission upon the receipt of a petition, and the planning
7 commission is required to make recommendations to the council
8 in regard to the proposed promotion area. The city planning
9 commission is also required to prepare an evaluative report
10 for the council on the merit and feasibility of the promotion
11 services for the proposed promotion area. The bill provides
12 alternative procedures in the event the city does not have a
13 planning commission.

14 Upon the receipt of the commission's final report, the
15 council shall set a time and place for a meeting at which the
16 council proposes to take action for the establishment of the
17 promotion area and receive comments from residents.

18 The bill establishes council voting requirements for the
19 approval of an ordinance establishing a promotion area, appeal
20 provisions relating to the establishment of a promotion area,
21 provisions governing amendments to the ordinance creating the
22 promotion area, and provisions governing the dissolution of the
23 promotion area. Such requirements and provisions are similar
24 to those in current Code chapter 386 for establishment of a
25 self-supported municipal improvement district.

26 The bill provides that except for the local lodging fee
27 authorized in the bill, a city is not authorized to levy
28 any taxes or issue any bonds otherwise authorized in Code
29 chapter 386 within a promotion area unless the city has also
30 established a district in accordance with the provisions of
31 Code chapter 386 that includes the property comprising the
32 promotion area.

33 Following establishment of a promotion area, as part of the
34 ordinance establishing the promotion area, a city may impose
35 a local lodging fee, not to exceed \$1, to be imposed on each

1 night of lodging rental at a lessor located in the promotion
2 area. The local lodging fee shall be collected by the lessor
3 of lodging from the user of that lodging. The lessor shall
4 add the fee to the sales price of the lodging, and the fee
5 shall be stated as a distinct item separate and apart from the
6 sales price of the lodging and taxes imposed. Local lodging
7 fees collected by a lessor shall be due and payable to the city
8 according to a schedule specified in the ordinance. A lessor
9 is liable for the payment of fees to the city in the same manner
10 as liability is imposed on retailers for the payment of certain
11 state taxes.

12 The bill requires the city to contract with a promotion
13 board, as defined in the bill, to administer the local lodging
14 fees collected by a city and to undertake promotion services
15 within the promotion area using such revenues.

16 The bill requires that local lodging fees received by a
17 city be deposited in a promotion area account within the
18 city's general fund. Such revenues must then be transferred
19 to the promotion board not less than quarterly. The moneys
20 transferred to the promotion board shall be used for promotion
21 services within the applicable promotion area. The bill
22 defines "promotion services" to mean any of the following:
23 publicizing public events that benefit businesses or property
24 in a promotion area; coordinating live music performances
25 in a promotion area; coordinating promotion, marketing, and
26 sales programs to benefit property or businesses located in a
27 promotion area; marketing and economic development services,
28 including retail retention and recruitment for the promotion
29 area; providing security, sanitation, graffiti removal, street
30 and sidewalk cleaning, and other services for the promotion
31 area that are in addition to those already provided by the
32 city; and any other services that benefit businesses and
33 property located in the promotion area.

34 The bill provides that an ordinance imposing a local lodging
35 fee is required to designate a city officer to receive payments

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1 from lessors and to prescribe any forms necessary for the
2 collection, reporting, and payment of such fees.